

SENATE BILL 534

By Haile

AN ACT to amend Tennessee Code Annotated, Section 4-3-305; Title 7; Title 9 and Title 68, relative to public finance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-3-305(b), is amended by deleting the language "The comptroller of the treasury or the comptroller's designee shall, when a general act for county budgeting, or a county fiscal control act, is enacted, have authority to:" and substituting instead the language "The comptroller of the treasury or the comptroller's designee shall, when a general or private act for county budgeting, or a county fiscal control act, is enacted, have authority to:".

SECTION 2. Tennessee Code Annotated, Section 4-3-305(b), is amended by deleting subdivision (1) and substituting instead the following:

(1) Prescribe forms and procedures and provide guidance manuals for the preparation of annual budgets in the several counties and in the other local governments;

SECTION 3. Tennessee Code Annotated, Section 4-3-305(b)(6), is amended by deleting the subdivision and substituting instead the following:

(6) With approval of the state funding board, provide guidance manuals with respect to the issuance of county and municipal notes and bonds, the refunding and retirement of county and municipal debts, and the handling of county or municipal defaults; and

SECTION 4. Tennessee Code Annotated, Section 7-82-501(e), is amended by deleting the subsection and substituting instead the following:

(e) Prior to the beginning of the fiscal year, all utility districts, whether created pursuant to this chapter or any public or private act by the general assembly, shall adopt balanced annual operating budgets that identify all anticipated revenues of the district by source and identify all anticipated expenses by type of expense. Such budgets must be based upon historical operating results and reasonably anticipated future operations. The budgets as adopted must be submitted to the comptroller of the treasury or the comptroller's designee for approval. The comptroller of the treasury shall provide guidance to the form of the budget, including supplemental schedules, as necessary, to demonstrate utility districts have adequate cash to meet its current obligations, including principal and interest, as applicable. If a proper budget is either not approved by the comptroller of the treasury or the comptroller's designee or not submitted to the comptroller of the treasury or the comptroller's designee when required under this part within two (2) months of the beginning of the fiscal year, then debt or financing obligations shall not be issued by the district until the comptroller of the treasury or the comptroller's designee has approved the budget. In the case of an emergency, the comptroller of the treasury or the comptroller's designee, may waive the requirement of budget approval in order to allow the district to enter into emergency financial transactions.

SECTION 5. Tennessee Code Annotated, Section 9-21-403(a)(1), is amended by deleting the subdivision and substituting instead the following:

(1) In order for the current available funding of a local government to be sufficient to meet current expenditures, an annual budget must be required of the local government by the comptroller of the treasury or the comptroller's designee. The annual budget must be on the same basis of accounting as required by generally accepted accounting principles and prepared in a form consistent with accepted governmental

standards and as approved by the comptroller of the treasury or the comptroller's designee. The comptroller of the treasury shall provide guidance to the form of the budget, including supplemental schedules, as necessary, to demonstrate local governments have adequate cash to meet its current obligations, including principal and interest, as applicable.

SECTION 6. Tennessee Code Annotated, Section 9-21-403, is amended by deleting subsections (b) and (c) and substituting instead the following:

(b) After receiving the annual budget estimate, the governing body shall prepare an appropriation resolution or budget ordinance, consistent with its form of government, using the budget estimate as a basis, but appropriating such sums as the governing body may deem proper for current operating expenses, whether greater or less than the budget estimate set forth. However, an appropriation recommended by the budget estimate for interest on the indebtedness of the local government, for sinking funds, and for principal of debt maturing during the fiscal year shall not be reduced below scheduled requirements by the governing body. The taxes levied for such appropriation may be over and above all other taxes authorized or limited by law. Immediately after the passage of the appropriation resolution or budget ordinance, the governing body shall pass a resolution or ordinance levying upon all property subject to taxation, a tax rate sufficient to produce the sum necessary to balance the budget.

(c) The comptroller of the treasury or the comptroller's designee shall require any periodic information from a local government that has issued debt under this chapter or under prior authorizing statutes or is subject to the budget requirements of § 4-3-305 and make such audits as the comptroller of the treasury or the comptroller's designee may deem necessary, to the end that it may be ascertained that the budget is kept balanced during the life of the debt. The annual budget of each local government must

be submitted to the comptroller of the treasury or the comptroller's designee immediately upon its adoption. The comptroller of the treasury or the comptroller's designee shall thereupon determine whether or not the budget will be in balance in accordance with this chapter. If the budget does not comply with this chapter, then the comptroller of the treasury or the comptroller's designee shall have the power and the authority to direct the governing body of the local government to adjust its estimates, to reduce expenditures, or to make additional tax levies sufficient to comply with this chapter. Any budget adopted by the governing body of a local government must be submitted for approval by the comptroller of the treasury or the comptroller's designee. The comptroller of the treasury or the comptroller's designee shall approve the budget only when the comptroller of the treasury or the comptroller's designee is satisfied that it complies with this chapter.

SECTION 7. Tennessee Code Annotated, Section 9-21-404, is amended by deleting the section and substituting instead the following:

If a budget is either not approved by the comptroller of the treasury or the comptroller's designee or not submitted to the comptroller of the treasury or the comptroller's designee when required under this part within two (2) months of the beginning of the fiscal year, then debt or financing obligations shall not be issued by the public entity until the comptroller of the treasury or the comptroller's designee has approved the budget, or as otherwise provided for in a manner approved by the comptroller of the treasury or the comptroller's designee. In the case of an emergency, the comptroller of the treasury or the comptroller's designee, may waive the requirement of budget approval in order to allow the public entity to enter into emergency financial transactions.

SECTION 8. Tennessee Code Annotated, Section 68-221-611, is amended by adding the following new subsections:

(k) All authorities, whether created pursuant to this chapter or any public or private act by the general assembly, shall not issue a bond or note authorized by this chapter until the resolution authorizing the issuance of bonds or notes, together with a statement as of the beginning of the then current fiscal year, which statement must show in detail the total outstanding bonds, notes, warrants, refunding bonds, and other evidences of indebtedness of the authority, together with the maturity dates of the bonds, notes, warrants, refunding bonds, and other evidences of indebtedness, interest rates, special provisions for payment, the project to be funded by the bonds or notes, the current operating financial statement of the authority and any other pertinent financial information, is submitted to the comptroller of the treasury or the comptroller's designee for review, and the comptroller of the treasury or the comptroller's designee shall report thereon to the authority within fifteen (15) days from the date the plan is received by the comptroller of the treasury or the comptroller's designee. The comptroller of the treasury or the comptroller's designee shall immediately acknowledge receipt in writing of the proposed bond or note issue statement and information. The report thus received by the authority must be published once in a newspaper of general circulation in the county of the principal office of the authority, and any other counties that it serves, during the week following the report's receipt. After receiving the report of the comptroller of the treasury or the comptroller's designee, and after publication of such report, or after the expiration of fifteen (15) days from the date the statement and information are received by the comptroller of the treasury or the comptroller's designee, whichever date is earlier, the authority may take such action with reference to the proposed bond or note issue as it

deems advisable. Such report of the comptroller of the treasury or the comptroller's designee must also be made a part of the bond transcript.

(l) Any provision of this section related to the review or approval of any bond or note issued by the comptroller of the treasury or the comptroller's designee, or other state agency, does not apply when the bond or bonds or other evidence of indebtedness of the authority are to be purchased or the loan is to be made by the farmers home administration or any other direct lending department of the government of the United States.

(m) Prior to the beginning of the fiscal year, all authorities, whether created pursuant to this chapter or any public or private act by the general assembly, shall adopt balanced annual operating budgets that identify all anticipated revenues of the authority by source and identify all anticipated expenses by type of expense. Such budgets must be based upon historical operating results and reasonably anticipated future operations. The budgets as adopted must be submitted to the comptroller of the treasury or the comptroller's designee for approval. The comptroller of the treasury shall provide guidance to the form of the budget, including supplemental schedules, as necessary, to demonstrate authorities have adequate cash to meet current obligations, including principal and interest, as applicable. If a proper budget is either not approved by the comptroller of the treasury or the comptroller's designee or not submitted to the comptroller of the treasury or the comptroller's designee when required under this part within two (2) months of the beginning of the fiscal year, then debt or financing obligations shall not be issued by the authority until the comptroller of the treasury or the comptroller's designee has approved the budget, or as otherwise provided for in a manner approved by the comptroller of the treasury or the comptroller's designee. In the case of an emergency, the comptroller of the treasury or the comptroller's designee, may

waive the requirement of budget approval in order to allow the authority to enter into emergency financial transactions.

(n) If an authority proposes to sell bonds in excess of fifty million dollars (\$50,000,000) at a negotiated sale, a written request for proposal must be sent to a minimum of five (5) qualified firms no later than thirty (30) days prior to the first meeting of the board of commissioners to discuss the specific bond transaction. A minimum of three (3) proposals must be received no later than fourteen (14) days prior to such first meeting. This requirement applies to both financial advisory and underwriting services.

SECTION 9. Tennessee Code Annotated, Section 68-221-1306(c), is amended by adding the following new subdivision:

(3) Prior to the beginning of the fiscal year, all authorities shall adopt balanced annual operating budgets that identify all anticipated revenues of the authority by source and identify all anticipated expenses by type of expense. Such budgets must be based upon historical operating results and reasonably anticipated future operations. The budgets as adopted must be submitted to the comptroller of the treasury or the comptroller's designee for approval. The comptroller of the treasury shall provide guidance to the form of the budget, including supplemental schedules, as necessary, to demonstrate authorities have adequate cash to meet current obligations, including principal and interest, as applicable. If a proper budget is either not approved by the comptroller of the treasury or the comptroller's designee or not submitted to the comptroller of the treasury or the comptroller's designee when required under this part within two (2) months of the beginning of the fiscal year, then debt or financing obligations shall not be issued by the authority until the comptroller of the treasury or the comptroller's designee has approved the budget, or as otherwise provided for in a manner approved by the comptroller of the treasury or the comptroller's designee. In the

case of an emergency, the comptroller of the treasury or the comptroller's designee, may waive the requirement of budget approval in order to allow the authority to enter into emergency financial transactions.

SECTION 10. Tennessee Code Annotated, Section 68-221-1311, is amended by adding the following new subsections:

(k) A bond or note authorized by this chapter shall not be issued until the resolution authorizing the issuance of bonds or notes, together with a statement as of the beginning of the then current fiscal year, which statement must show in detail the total outstanding bonds, notes, warrants, refunding bonds, and other evidences of indebtedness of the authority, together with the maturity dates of the bonds, notes, warrants, refunding bonds, and other evidences of indebtedness, interest rates, special provisions for payment, the project to be funded by the bonds or notes, the current operating financial statement of the authority and any other pertinent financial information, is submitted to the comptroller of the treasury or the comptroller's designee for review, and the comptroller of the treasury or the comptroller's designee shall report thereon to the authority within fifteen (15) days from the date the plan is received by the comptroller of the treasury or the comptroller's designee. The comptroller of the treasury or the comptroller's designee shall immediately acknowledge receipt in writing of the proposed bond or note issue statement and information. The report thus received by the authority must be published once in a newspaper of general circulation in the county of the principal office of the authority, and any other counties that it serves, during the week following the report's receipt. After receiving the report of the comptroller of the treasury or the comptroller's designee, and after publication of such report, or after the expiration of fifteen (15) days from the date the statement and information are received by the comptroller of the treasury or the comptroller's designee, whichever date is earlier, the

authority may take such action with reference to the proposed bond or note issue as it deems advisable. Such report of the comptroller of the treasury or the comptroller's designee must also be made a part of the bond transcript.

(l) Any provision of this section related to the review or approval of any bond or note issued by the comptroller of the treasury or the comptroller's designee, or other state agency, does not apply when the bond or bonds or other evidence of indebtedness of the authority are to be purchased or the loan is to be made by the farmers home administration or any other direct lending department of the government of the United States.

(m) If an authority proposes to sell bonds in excess of fifty million dollars (\$50,000,000) at a negotiated sale, a written request for proposal must be sent to a minimum of five (5) qualified firms no later than thirty (30) days prior to the first meeting of the board of commissioners to discuss the specific bond transaction. A minimum of three (3) proposals must be received no later than fourteen (14) days prior to such first meeting. This requirement applies to both financial advisory and underwriting services.

SECTION 11. This act takes effect upon becoming a law, the public welfare requiring it.